

| WISCONSIN LEGAL AUTHORITY REVIEW STATUS 07.19.2016 | | | |
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| Issue | Description | Status | Next Steps |
| RESOLVED ISSUES | | | |
| 1 | SSOs and Bypassing | Approved in EPA Adm. Hedman's 12.2014 letter | None |
| 33 | Real Time | Approved in EPA Dir. Hyde's 12.2012 letter | None |
| 54 | Storm W. - Def. Plan of Dev. | Approved in EPA Dir. Hyde's 12.2012 letter | None |
| 68 | Compliance Statutory Language | Approved in EPA Dir. Hyde's 12.2012 letter | None |
| 72 | Mixing Zone Language | Approved in EPA Dir. Hyde's 12.2012 letter | None |
| 73 | Submittal of Mixing Demo | Approved in EPA Dir. Hyde's 12.2012 letter | None |
| ISSUES IN-HOUSE EPA | | | |
| 3 | Permit Modifications | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 6 | Thermal Limit Exclusion | WI Act 307 sub. by WDNR for review, 04.11.2016 | EPA review of 2015 WI Act 307 |
| 9 | Analytical Methods | RP 7 submitted by WDNR for review, 03.10.2016 | EPA review of RP 7 |
| 16 | Pretreatment | RP 2 submitted by WDNR for review, 03.10.2016 | EPA review of RP 2 |
| 18 | Permit Application Signatures | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 21 | Fact Sheets, Specific Conditions | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 22 | Draft Permits/Other Agencies | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 23 | WisDot Storm W. Permitting | WI Act 307 sub. by WDNR for review, 04.11.2016 | EPA review of 2015 WI Act 307 |
| 26 | MS4, MOU Compliance | WI Act 307 sub. by WDNR for review, 04.11.2016 | EPA review of 2015 WI Act 307 |
| 27 | New Source Definition | WI Act 307 sub. by WDNR for review, 04.11.2016 | EPA review of 2015 WI Act 307 |
| 45 | Permits not Property Interest | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 47 | Signatory to Permit | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 48 | Permit Termination | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 49 | Permit Change Notification | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 50 | Permit Termination | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 51 | Public Hearing Procedures | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 62 | Permit Suspension | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 65 | Draft Permit Preparation | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| 66 | Fact Sheets | RP 6 submitted by WDNR for review, 03.10.2016 | EPA review of RP 6 |
| ISSUES IN THE LATE STAGES OF THE WI RULEMAKING PROCESS | | | |
| 2 | Expression of Limits, 40 CFR 122.45 | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 8 | Hg Reasonable Potential | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 10 | Pollutants in Intake Water | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 17 | Noncontact Cooling Exempt | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 28 | Acute Limits | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 30 | Expression of Limits, Ammonia | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 31 | Ammonia, Data/Demonstrations | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 32 | Tier II Value Compliance | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 34 | Expression of Limits, Acute/Chronic | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 35 | Ammonia, WQBEL | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 36 | Ammonia, Antidegradation | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 37 | Ammonia, Compliance Schedule | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 38 | Ammonia, Variance | Approved by the WI Legislature | Publication in the WI Administrative Register |

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| Issue | Description | Status | Next Steps |
| 39 | Chlorides, Variance | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 40 | Chlorides, WQBEL | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 41 | Expression of Limits | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 42 | Chlorides, WET | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 43 | Chlorides, Public Water System | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 70 | Alternative Limits | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 71 | BCC Mixing Zone Phase Out | Approved by the WI Legislature | Publication in the WI Administrative Register |
| 74 | WET Testing | Approved by the WI Legislature | Publication in the WI Administrative Register |
| ISSUES IN THE OPENING STAGES OF THE WI RULEMAKING PROCESS | | | |
| 4 | Cooling Water Intake | (WY-19-14) language developed | WDNR advances rules to its Nat. Res. Bd. |
| 7 | New Source Per. Standards | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 11 | Generic Reasonable Potential | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 13 | BMP Authority | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 14 | Antibacksliding | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 15 | General Compliance Schedule | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 20 | Adjustment to Tech. Limits | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 29 | Solid Waste Leachate | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 44 | Point Source Definition | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 46 | Expedited Variance | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| 61 | Application Requirements | RP 5 language developed | WDNR advances rules to its Nat. Res. Bd. |
| ISSUES PROVISIONALLY ADDRESSED BY WDNR'S IMPLEMENTATION, TO BE RESOLVED BY FUTURE RULEMAKING | | | |
| 52 | Storm W.- Access Roads & Rail | Roads and rails included in Tier 2 General Permit | WDNR to develop rule language |
| 53 | Storm W., Lat. and Long. | WDNR modified form 3400-188 | WDNR to develop rule language |
| 55 | Storm W.- Illicit Discharge Def. | WDNR submittal, 06.23.2016 | WDNR to develop rule language |
| 57 | MS4, Man. Prog. Changes | WDNR modified form 3400-195 | WDNR to develop rule language |
| 67 | MS4, Evaluation/Public Records | WDNR modified form 3400-195 and Wis. Stat. §19.35(1) | WDNR to develop rule language |
| ISSUES TO BE RESOLVED BY FUTURE RULEMAKING | | | |
| 12 ² | Downstream Water Impacts | EPA review determines rulemaking is required | WDNR to develop rule language |
| 19 ² | Aquatic Production Facility | EPA review determines rulemaking is required | WDNR to develop rule language |
| 24 ³ | Storm W.- Com. /Fam./ Env. | 2013 Wis. Act 20 passed | WDNR to develop rule language |
| 25 ³ | Storm W.- Auth. Local Program | EPA review determines rulemaking is required | WDNR to develop rule language |
| 56 | MS4, Other Government Reliance | EPA review determines rulemaking is required | WDNR to develop rule language |
| 58 ² | Waters of State Definition | EPA review determines rulemaking is required | WDNR to develop rule language |
| 59 ² | Landfill Exclusion | EPA review determines rulemaking is required | WDNR to develop rule language |
| 60 ² | Private Fuel Alcohol Production | EPA review determines rulemaking is required | WDNR to develop rule language |
| 63 ² | False Statements | EPA review determines rulemaking is required | WDNR to develop rule language |
| 64 ² | Public Participation Enforc. Cases | EPA review determines rulemaking is required | WDNR to develop rule language |
| 75 ² | Adequate Enforcement Authority | EPA review determines rulemaking is required | WDNR to develop rule language |
| ISSUES TO BE RESOLVED BY FUTURE STATUTORY CHANGES | | | |
| 5 | Judicial Review | Issue 5's AGS resolution invalidated by Wis. Ct. App. | Develop statutory language |
| 69 | Exempt Emergency Wis. Stat. § 283 | WDNR and EPA discussions | Develop statutory language or other resolution |

Notes:

¹Abbreviations: AGS – Attorney General Statement, Auth.—authorized, BCC – bioaccumulative chemicals of concern, BMP – best management practices, CFR – Code of Federal Regulations, Con.—construction, Env.—environmental, EPA – Environmental Protection Agency, Lat. – Latitude, Long. – Longitude, MOU – Memorandum of Understanding, MS4 – municipal separate storm sewer system, Nat. Res. Bd. – Natural Resources Board, RP – rule package, SSO – sanitary sewer overflow, Storm W. – storm water, WDNR – Wisconsin Department of Natural Resources, WET – Whole Effluent Toxicity, WI – Wisconsin, WisDot – Wisconsin Department of Transportation, Wis. Ct. App. – Wisconsin Court of Appeals, WQBEL – Water Quality Based Effluent Limits.

² EPA Director Hyde’s December 12, 2012 letter approved this issue’s resolution based on a statement by the Wisconsin Attorney General that cited Wisconsin’s existing, specific authority addressing the issue. However, subsequently the Wisconsin Court of Appeals—in strong language—invalidated the Attorney General Statement’s resolution of Issue 5 (Judicial Review), raising concern about the statement’s efficacy to resolve WI LAR issues generally (2014 WI App 61). Given the Wisconsin Court of Appeals’ ruling, EPA again reviewed this issue and determined that a rule change is now necessary to ensure that the issue is resolved.

³ EPA is reviewing Midwest Environmental Defense Center (MEDC) v. WDNR, Dane County Case No. 15-CV-2409. In the case, WDNR stipulated that it would not approve any “other environmental programs” under Wis. Admin. Code § NR 216.42(6) and “authorized local programs” under Wis. Admin. Code § NR 216.415(4). If warranted by the review, EPA will change the status of Issues 24 and/or 25 to provisionally addressed, requiring future rulemaking.